

## **TITLE 25. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

### **NOTICE OF PROPOSED RULEMAKING FOR THE HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM**

**NOTICE IS HEREBY GIVEN** that the Department of Housing and Community Development (Department) proposes to formally amend regulations which govern implementation of the State Home Investment Partnerships Program (HOME). The existing regulations are codified in Title 25, Subchapter 2 (commencing with section 8200) of the California Code of Regulations.

#### **WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period begins March 2, 2007 and closes at 5:00 p.m. on April 16, 2007. The Department will consider comments received during this timeframe. Please address your e-mail comments to Christina DiFrancesco at [cdifrancesco@hcd.ca.gov](mailto:cdifrancesco@hcd.ca.gov). Written comments can also be sent via mail to Christina DiFrancesco, Department of Housing and Community Development, P.O. Box 952054, Sacramento, California 94252-2054, or via fax to (916) 322-2904, attention: Christina DiFrancesco.

#### **PUBLIC HEARING**

A public hearing regarding this proposed regulatory action is scheduled for April 16, 2007 from 12:00 P.M. – 5:00 P.M. at the Department's Headquarters Office, 1800 Third Street, Room 183, Sacramento, California. Any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest below. The Department requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimonies at the hearing.

#### **AUTHORITY AND REFERENCE**

HCD is conducting this rulemaking activity pursuant to the authority provided by Health and Safety Code Sections 50406 and 50896.3(b). These regulations implement, interpret and make specific amendments to Chapter 12 (commencing with Section 50896) of Part 2 of Division 31 of the Health & Safety Code.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Health and Safety Code 50407 establishes that the Department is responsible for coordinating federal-state relationships in housing and community development. In conjunction with this responsibility, Health and Safety Code

section 50406 directs the Department to be responsible for the allocation of Federal Home Investment Partnership Program funds. Consequently, the State of California receives money from the U.S. Department of Housing and Urban Development to make grants to eligible cities and counties and direct loans and grants to private organizations that qualify as Community Housing Development Organizations (CHDOs). These regulations establish procedures for the award and disbursement of HOME funds and establish policies and procedures for the use of these funds to meet the purposes contained in Title II of Public Law No. 101-625, 104 Stat. 4079, known as the Cranston-Gonzalez National Affordable Housing Act of 1990 as amended by the Housing and Community Development Housing Act of 1992, Public Law No. 102-550. These funds can be used for a variety of housing-related uses provided the State, the cities and counties and the CHDOs comply with a comprehensive set of requirements prescribed by the Federal government regulations in 24 CFR part 92.

The proposed changes to the State HOME Regulations are summarized as follows.

**Section 8204. Eligible Applicant** Amendments require State Recipients and CHDOs to submit direct evidence with their HOME application that they are in compliance with the submittal requirements of the OMB A-133 Single Audit Report.

**Section 8207. Amount of HOME Assistance** Amendments permit primary lender loan terms for first-time homebuyer loans to exceed thirty years.

**Section 8207.1. Homebuyer Education Requirements** This new section requires first-time homebuyers assisted with HOME funds to complete a homebuyer education course, and sets forth the basic topics to be covered. This new section is similar to that of the Department's CalHome Program.

**Section 8208. Affordability Requirements** Amendments clarify how rent restrictions for HOME-funded rental projects shall be established by the Department.

**Section 8209. Tenant-Based Rental Assistance** Amendments permit use of Tenant-Based Rental Assistance funds outside of the jurisdiction to which those funds were awarded, but within the county of the jurisdiction.

**Section 8211. Application Requirements/Form** Amendments require submission of certain documents to evaluate project feasibility, including but not limited to, a market study, appraisal, and Phase I/Phase II Environmental Site Assessments or lead, asbestos, and mold assessments. Basic standards for preparation of the reports are also set forth. First-time homebuyer projects must also submit project guidelines.

**Section 8212. Application Selection and Evaluation** Amendments to this section do the following: (1) clarify that program applications, rental project applications, and first-time homebuyer applications will be rated and ranked separately; (2) Increase the number of points in the State Objectives rating category from 50 to 150; (3) amend the prior performance rating factor to deduct points based on the prior performance of the developer, owner, and managing general partner; (4) clarify that evaluation of rental project feasibility also includes an evaluation of compliance with State and federal HOME requirements, and (5) set forth criteria for evaluating the feasibility of first-time homebuyer projects.

**Section 8212.1. Allocation by Type of Activity and Rural Location**

Amendments to this section do the following: (1) establish a separate minimum allocation of 5% for first-time homebuyer projects; (2) clarify that the minimum allocation for programs and rental projects shall be 40%; (3) provide that in the event that the minimum allocation for program activities is undersubscribed, funds made available under a separate NOFA may be divided equally among all eligible applicants, and (5) clarify that program applications, rental project applications, and first-time homebuyer applications will be rated and ranked separately.

**Section 8212.2. Deep Targeting** This new section sets forth the requirements for the award of deep targeting funds by the Department.

**Section 8213. Conditional Reservation of Funds** Amendments clarify that applications will be ranked according to their scores compared to other applications competing for the same allocation of funds.

**Section 8216. Reporting and Recordkeeping** Amendments will require projects participating in the HOME Program to submit monthly status reports until project completion.

**Section 8217. Project Deadlines** Amendments to this section conform to the amendments in Section 8212 regarding rating point deductions for missed project deadlines.

## **IMPACT OF PROPOSED REGULATIONS**

### **LOCAL MANDATE**

The Department has determined that these regulations do not impose a mandate on local agencies or school districts. Eligibility for the program is limited to entities demonstrating willingness and capacity to develop and administer affordable housing. In any case, participation in the program is voluntary.

### **FISCAL IMPACT**

The Department has determined that no savings or increased costs to any State agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in Federal funding to the State will result from the proposed action.

### **EFFECT ON SMALL BUSINESS**

The Department has determined that the proposed action has no impact on small business because participation in the HOME Program is voluntary.

### **EFFECT ON HOUSING COSTS**

The Department has determined that the proposed action has no significant impact on housing costs in California.

### **INITIAL DETERMINATION OF STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES**

The Department has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

### **ASSESSMENT STATEMENT**

The Department has determined that the regulations will not affect the creation or elimination of jobs in California; the creation of new businesses or the elimination of existing businesses within California; or the expansion of businesses currently operating in California. In any case, participation in the program is voluntary.

### **COST IMPACTS ON PRIVATE PERSONS OR BUSINESSES DIRECTLY AFFECTED**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. While private businesses (including nonprofits) and individuals are eligible to receive program funds under the program, participation is voluntary.

### **CONSIDERATION OF ALTERNATIVES**

The Department of Housing and Community Development must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

### **AVAILABILITY OF TEXT OF PROPOSED REGULATIONS AND STATEMENT OF REASONS**

The text of the proposed regulations is available upon request, along with the Initial Statement of Reasons, prepared by the Department, which provides the reasons for the proposals, and is available on the Department's web site, at <http://www.hcd.ca.gov/fa/home/>. All information the Department is considering as a basis for this proposal is maintained in a rulemaking file, which is available for inspection at the address noted below. Copies can be obtained by contacting Christina DiFrancesco at the address and telephone number noted below.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

Following the written comment period, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text--with changes clearly indicated--available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Christina DiFrancesco at the address indicated below. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

### **AVAILABILITY OF RULEMAKING DOCUMENTS**

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting Christina DiFrancesco at the address and telephone number noted

below.

### **AVAILABILITY OF FINAL STATEMENT OF REASONS**

At the conclusion of this rulemaking, a Final Statement of Reasons will be prepared as required by Government Code section 11346.9. This document will be available from the contact person named below.

### **CONTACT PERSON**

**HCD: CHRISTINA DIFRANCESCO  
(916) 322- 0918**

**HCD BACK-UP: LENORA FRAZIER  
(916) 323-7288**

**HCD Address: State Department of Housing and Community  
Development  
1800 Third Street, Room 390  
Sacramento, California 95814**

**HCD Website:** Copies of the Notice of Proposed Action, the Initial  
Statement of Reasons, and the text of the regulations may  
be accessed through our website at:  
**<http://www.hcd.ca.gov/fa/home/>**

**HCD Facsimile No: (916) 322-2904**

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period. Inquiries concerning the substance of the proposed rulemaking action, as well as request for the documents noted should be directed to:

**Christina DiFrancesco, HOME Program Specialist  
Department of Housing and Community Development  
1800 Third Street, Suite 390  
Sacramento, California 95814  
Telephone (916) 322-0918  
Fax: (916) 322-2904  
E-mail: [cdifrancesco@hcd.ca.gov](mailto:cdifrancesco@hcd.ca.gov)**